IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2398 of 2007

BHAN MAL
V/S
LR OF CHATARBHAN

Mr. SURESH SHRIMALI, for the appellant / petitioner

Mr. SANDEEP SHAH, for the respondent

Date of Order : 17.9.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order learned trial court has dismissed petitioner's application filed for dismissal of the suit, which was filed on the ground that new Rent Control Act has come into force in the township of Sumerpur since 11.1.2006, and therefore, the jurisdiction to decide the dispute between tenant and landlord vests exclusivly with the Rent Control Tribunal, and therefore, the suit as filed in the present court lacks jurisdiction, and therefore, is required to be returned to the plaintiff for presentation before appropriate Court.

The application was opposed on the ground that the Act has become applicable on 11.1.2006 but that applies only to the suits filed thereafter, and does not retrospectively cover pending litigations. Learned trial

court has found that new Rent Control Act has become applicable in the town of Sumerpur since 11.1.2006, and gives exclusive jurisdiction to Rent Control Tribunal, and that Section 32 of the new Rent Control Act provides that the cases pending under the old Rent Control Act shall continue as if the new Rent Control Act has not come into force. It has then been held that present suit has been filed under the Transfer of Property Act on 16.4.2004 at which time neither of the Rent Control laws were applicable to the township of Sumerpur, and new Rent Control Act does not make any provision to make it applicable to the pending litigation, and therefore, the Court continues to retain the jurisdiction to try the suit filed under the Transfer of Property Act.

May be that the reasoning given by the learned trial Court may not be sustainable, as, if the new Rent Control Act applies, the non-obstante clause incorporated in Section 9 does apply, but then, here the thing is, that the new Rent Control Act has not been made applicable to Merta.

Much was sought to be argued, that there has been amendment in the new Rent Control Act, 2001, being Rajasthan Rent Control (Second Amendment) Act, 2005, whereby in sub-section (2) of Section 1, the expression “having a population exceeding fifty thousand as per 1991

Census" has been deleted, and this amendment has been brought into effect vide notification dated 20.2.2006, with immediate effect, and therefore, since the requirement of fifty thousand population has been deleted, the Rent Control Act, 2001 obviously becomes applicable to the Merta municipal area as well.

I am afraid that that is not correct interpretation of the provisions of Section 1(2).

For ready reference, I may quote the provisions of sub-section (2) of Section 1 of the Act of 2001, which read as under:

> "(2) It shall extend in first instance to such of the municipal areas which are comprising the District Headquarters in the State and later on to such of the other municipal areas having a population exceeding fifty thousand as per 1991 Census as the State Government may, by notification in the Official Gazette, specify from time to time."

From out of the above provision, after deletion of the words deleted by Second Amendment Act, the remaining part of sub-section (2) would read as under:

> "(2) It shall extend in first instance to such of the municipal areas which are comprising the District Headquarters in the State and later on to such of the other municipal areas as the State Government may, by notification in the Official Gazette, specify from time to time."

In my view, thus, on the reading of the consequently amended sub-section (2) also, it cannot be said that the Act is applicable to the municipal area of Merta City, in absence of any notification, published in Official Gazette, specifying the Act to have become applicable to this area. In that view of the matter, though for different reason, I do not find any sufficient ground to interfere with the impugned order.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/